

19. *Must a BOC that solicits customer approval, whether oral, written, or opt-out, on behalf of its separated affiliates or electronic publishing joint venture also offer to solicit that approval on behalf of unaffiliated entities? That is, must the BOC offer an "approval solicitation service" to unaffiliated electronic publishers when it provides such a service for its section 274 separated affiliates, electronic publishing joint ventures, or affiliates under section 274(c)(2)(A)? What impact, if any, does section 222(d)(3) have on the BOC's obligations under section 274(c)(2)(A) with regard to the solicitation of a customer's approval during a customer-initiated call? What specific steps, if any, must a BOC take to ensure that any solicitation it makes to obtain customer approval does not favor its section 274 separated affiliates or electronic publishing joint ventures or affiliates over unaffiliated entities? If the customer approves disclosure to both the BOC's section 274 separated affiliates or electronic publishing joint ventures or affiliates and unaffiliated entities, must a BOC provide the customer's CPNI to the unaffiliated entities on the same rates, terms, and conditions (including service intervals) as it provides the CPNI to its section 274 separated affiliates or electronic publishing joint ventures or affiliates?*

**RESPONSE:**

Nothing in Section 222 requires a BOC to solicit approval for unaffiliated entities. There is no generally applicable non-discrimination obligation under the 1996 Act for non-telecommunications, non-information services.<sup>28</sup> Moreover, there is no requirement in the 1996 Act that a telecommunications carrier disclose CPNI to persons outside the scope of a customer's Section 222(c) authorization, simply because it solicits the use of CPNI from its own customers, whether those affiliates offer services contemplated to be within the scope of Section 274 or not. There is simply no tie between Section 222 and Section 274 that requires non-discriminatory provision of a non-telecommunications, non-information services.

Moreover, Section 274(c)(2)(A) only applies to "inbound telemarketing or referral services related to the provision of electronic publishing" and does not apply to any such "approval solicitation service." Further, Section 222(d)(3) permits the use of CPNI for inbound telemarketing, referral, or administrative purposes. Section 222(d) does not impose any obligation

---

<sup>28</sup>See, e.g., Non-accounting Safeguards First Report and Order at paras. 182, 202-36.

on a BOC, except to the extent that it is a "telecommunications carrier."

Finally, Section 274(c)(2)(A) only applies a non-discrimination obligation to "inbound telemarketing or referral services related to the provision of electronic publishing" and does not apply to the provision of CPNI.

20. *To the extent that sections 222(c)(1) and 222(d)(3) require customer approval, but not an affirmative written request, before a carrier may use, disclose, or permit access to CPNI, must a BOC disclose CPNI to unaffiliated electronic publishers under the same standard for customer approval as is permitted in connection with its section 274 separated affiliate, electronic publishing joint venture, or affiliate under section 274(c)(2)(A)? If, for example, a BOC may disclose CPNI to its section 274 separated affiliate pursuant to the customer's oral or opt-out approval, is the BOC required to disclose CPNI to unaffiliated entities upon the customer's approval pursuant to the same method?*

**RESPONSE:**

No. Section 274(c)(2)(A) only applies to "inbound telemarketing or referral services related to the provision of electronic publishing" and does not apply to the provision of CPNI.

(ii). **Section 274(c)(2)(B) -- Teaming or Business Arrangements**

21. *Must a BOC, that is engaged in a teaming or business arrangement under section 274(c)(2)(B) with "any separated affiliate or with any other electronic publisher," obtain customer approval before using, disclosing, or permitting access to CPNI for such entities? What forms of customer approval (oral, written, or opt-out) would be necessary to permit a BOC to use a customer's CPNI on behalf of each of these entities in this situation?*

**RESPONSE:**

Yes, to the extent that such approval is required by Section 222 (e.g., if the activity is not a Section 222(c)(1)(A) or (B) purpose). Oral, written, or opt-out customer approval could all be used lawfully. However, to the extent that the BOC were to disclose or permit access to CPNI by an unaffiliated electronic publisher, the requirements of Section 222(c)(2) would apply.

22. *Must a BOC that solicits customer approval, whether oral, written, or opt-out, on behalf of any of its teaming or business arrangements under section 274(c)(2)(B) also offer to solicit that approval on behalf of other teaming arrangements and unaffiliated electronic publishers? That is, must the BOC offer an "approval solicitation service" to unaffiliated electronic publishers and teaming arrangements when it provides such a service for any of its teaming or business arrangements under section 274(c)(2)(B)? If so, what specific steps, if any, must a BOC take to ensure that any solicitation it makes to obtain customer approval does not favor its electronic publishing teaming or business arrangements over unaffiliated entities? If the customer approves disclosure to both the BOC's electronic publishing teaming or business arrangements and unaffiliated entities, must a BOC provide the customer's CPNI to the unaffiliated entities on the same rates, terms, and conditions (including service intervals) as it provides the CPNI to its electronic publishing teaming or business arrangements under section 274(c)(2)(B)?*

**RESPONSE:**

See Response to Question No. 19. Any requirement that a BOC must solicit approval on behalf of unaffiliated entities would present difficult questions under the First Amendment to the Constitution of the United States. The scope of any CPNI disclosure is governed by the scope of the customers' authorization under Section 222(c)(1) or (c)(2).

23. *To the extent that sections 222(c)(1) and 222(c)(2) require customer approval, but not an affirmative written request, before a carrier may use, disclose, or permit access to CPNI, must a BOC disclose CPNI to unaffiliated electronic publishers under the same standard for customer approval as is permitted in connection with its teaming or business arrangements under section 274(c)(2)(B)? If, for example, a BOC may disclose CPNI to a section 274 separated affiliate with which the BOC has a teaming arrangement pursuant to the customer's oral or opt-out approval, is the BOC likewise required to disclose CPNI to unaffiliated electronic publishers or teaming arrangements upon obtaining approval from the customer pursuant to the same method?*

**RESPONSE:**

No. Section 274, like Section 272, is independent of the requirements of Section 222.

#### **D. OTHER ISSUES**

24. *Does the seeking of customer approval to use, disclose, or permit access to CPNI for or on behalf of its section 274 separated affiliate or electronic publishing joint venture constitute a "transaction" under section 274(b)(3)? If so, what steps, if any, must the BOC and its section 274 separated affiliate or electronic publishing joint venture take to comply with the requirements of section 274(b)(3) for purposes of CPNI?*

#### **RESPONSE:**

No. The BOC's seeking approval from customers does not itself constitute a transaction with its Section 274 affiliate. However, the act of seeking approval may be the result of a transaction that the BOC entered into with a Section 274 affiliate, which led to the BOC seeking approval. That underlying transaction would be subject to Section 274(b)(3). No special requirements are applicable simply because a transaction may relate to CPNI. Instead, the BOC and its Section 274 affiliate must comply with the requirements that will be adopted pursuant to the Commission's Further Notice of Proposed Rulemaking in CC Docket No. 96-152.

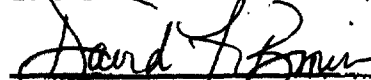
25. *Please comment on any other issues relating to the interplay between sections 222 and 274.*

#### **RESPONSE:**

There is no interplay between Section 222 and Section 274. Although no such rules are necessary or appropriate under the statutory scheme of the 1996 Act, any CPNI rules the Commission adopts based on Section 274 should sunset when 274 sunsets.

Respectfully Submitted,

SBC COMMUNICATIONS INC.



JAMES D. ELLIS

ROBERT M. LYNCH

DAVID F. BROWN

TIMOTHY P. LEAHY

PATRICK PASCARELLA

175 E. Houston, Room 1254  
San Antonio, Texas 78205  
(210) 351-3478

ATTORNEYS FOR  
SBC COMMUNICATIONS INC.,  
SOUTHWESTERN BELL COMMUNICATIONS  
SERVICES, INC., AND  
SOUTHWESTERN BELL INTERNET  
SERVICES, INC.

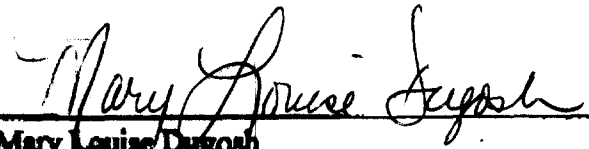
DURWARD D. DUPRE  
MARY MARKS  
ROBERT J. GRYZMALA  
One Bell Center, Room 3520  
St. Louis, Missouri 63101  
(314) 235-2507

ATTORNEYS FOR SOUTHWESTERN BELL  
TELEPHONE COMPANY

MARCH 17, 1997

**CERTIFICATE OF SERVICE**

I, Mary Louise Dugosh, hereby certify that the foregoing Further Comments of SBC Communications Inc. To Specific Questions in CC Docket No. 96-115 have been served this the 17th day of March, 1997, to the Parties of Record.

  
\_\_\_\_\_  
Mary Louise Dugosh

March 17, 1997

**ITS INC**  
1919 M STREET NW RM 246  
WASHINGTON DC 20554

**JANICE MYLES**  
FEDERAL COMMUNICATIONS COMMISSION  
COMMON CARRIER BUREAU  
1919 M STREET RM 544  
WASHINGTON DC 20544

**IRWIN A POPOWSKY**  
CONSUMER ADVOCATE  
OFFICE OF ATTORNEY GENERAL  
1425 STRAWBERRY SQUARE  
HARRISBURG PA 17120

**ANTHONY J GENOVESI**  
LEGISLATIVE OFFICE BLDG  
ROOM 456  
ALBANY NY 12248-0001

**PAUL RODGERS**  
GENERAL COUNSEL  
1201 CONSTITUTION AVE STE 1102  
WASHINGTON DC 20044

**CHARLES H HELEIN**  
GENERAL COUNSEL  
HELEIN & ASSOCIATES  
COUNSEL FOR AMERICAS  
TELECOMMUNICATIONS ASSOC  
8180 GREENSBORO DR STE 700  
MCCLEAN VA 22102

**JACKIE POLLIS**  
SENIOR POLICY ANALYST  
PUBLIC UTILITY COMMISSION OF TEXAS  
7800 SHOAL CREEK BOULEVARD  
AUSTIN TX 78757-1098

**KENNETH RUST**  
DIRECTOR  
NYNEX GOVERNMENT AFFAIRS  
1300 I ST STE 400 W  
WASHINGTON DC 20005

**SAUL FISHER**  
NYNEX TELEPHONE COMPANIES  
1095 AVENUE OF THE AMERICAS  
NEW YORK NY 10036

**THEODORE CASE WHITEHOUSE**  
WILLKIE FARR & GALLAGHER  
COUNSEL FOR ASSOCIATION OF DIRECTORY  
PUBLISHERS  
1155 21ST ST NW  
WASHINGTON DC 20036

**DAVID L MEIER**  
**DIRECTOR**  
**CINCINNATI BELL TELEPHONE**  
**201 E FOURTH ST**  
**CINCINNATI OH 45201-2301**

**DAVID A GROSS**  
**AIRTOUCH COMMUNICATIONS INC**  
**1818 N STREET NW STE 800**  
**WASHINGTON DC 20036**

**ALBERT HALPRIN**  
**HALPRIN TEMPLE GOODMAN & SUGRUE**  
**COUNSEL FOR YELLOW PAGES PUBLISHERS**  
**ASSOC**  
**1100 NEW YORK AVE NW STE 650E**  
**WASHINGTON DC 20005**

**KATHYRN MARIE KRAUSE**  
**U S WEST INC**  
**1020 19TH ST NW STE 700**  
**WASHINGTON DC 20036**

**DANNY E ADAMS**  
**KELLEY DRYE & WARREN LLP**  
**1200 NINETEENTH ST NW STE 500**  
**WASHINGTON DC 20036**

**MARK C ROSENBLUM**  
**AT&T CORP**  
**295 NORTH MAPLE AVE**  
**BASKING RIDGE NJ 07920**

**GLEN S RABIN**  
**FEDERAL REGULATORY COUNSEL**  
**ALLTEL TELEPHONE SERVICES CORPORATION**  
**655 15TH ST NW STE 200**  
**WASHINGTON DC 20005**

**JUDITH ST LEDGER-ROTY**  
**REED SMITH SHAW & MCCLAY**  
**1301 K ST NW STE 1100 EAST TOWER**  
**WASHINGTON DC 20005-3317**

**DENNIS C BROWN**  
**BROWN AND SCHWANINGER**  
**SMALL BUSINESS IN TELECOMMUNICATIONS**  
**1835 K STREET NW STE 650**  
**WASHINGTON DC 20006**

**CARL W NORTHROP**  
**PAUL HASTINGS JANOFFSKY & WALKER**  
**COUNSEL FOR ARCH COMMUNICATIONS**  
**GROUP**  
**1299 PENNSYLVANIA AVE NW 10TH FL**  
**WASHINGTON DC 20004-2400**



MARY MCDERMOTT  
UNITED STATES TELEPHONE ASSOCIATION  
1401 H ST NW STE 600  
WASHINGTON DC 20005

ANDREW D LIPMAN  
SWIDLER & BERLIN  
COUNSEL FOR MFS COMMUNICATIONS CO  
3000 K ST NW STE 300  
WASHINGTON DC 20007

BRADLEY STILLMAN  
COUNSEL FOR  
CONSUMER FEDERATION OF AMERICA  
1424 16TH ST NW SUITE 604  
WASHINGTON DC 20036

CATHERINE R SLOAN  
WORLD.COM INC  
d/b/a LDDS WORLD.COM  
1120 CONNECTICUT AVE NW  
SUITE 400  
WASHINGTON DC 20036

CHARLES C HUNTER  
HUNTER & MOW PC  
COUNSEL FOR TELECOMMUNICATIONS  
RESELLERS ASSOCIATION  
1620 I ST NW STE 701  
WASHINGTON DC 20006

MARY MAC ADD  
PEOPLE OF THE STATE OF CALIFORNIA AND  
THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA  
505 VAN NESS AVE  
SAN FRANCISCO CA 94102

RANDOLPH J MAY  
SUTHERLAND ASBILL & BRENNAN  
COUNSEL FOR COMPU SERVE INC  
1275 PENNSYLVANIA AVE NW  
WASHINGTON DC 20004-2404

PACIFIC TELESIS GROUP  
LUCILLE M MATES  
SARAH R THOMAS  
PATRICIA L C MAHONEY  
140 NEW MONTGOMERY STREET  
RM 1522A  
SAN FRANCISCO CA 94105

PACIFIC TELESIS GROUP  
MARGARET E GARBER  
1275 PENNSYLVANIA AVENUE NW  
WASHINGTON DC 20004

INTELCOM GROUP (USA) INC  
CINDY Z SCHONHAUT  
VICE PRESIDENT GOVERNMENT AFFAIRS  
9605 EAST MAROON CIRCLE  
ENGLEWOOD CO 80112

**THE BELL ATLANTIC TELEPHONE COMPANIES  
LAWRENCE W KATZ  
1320 NORTH COURT HOUSE ROAD  
EIGHTH FLOOR  
ARLINGTON VA 22201**

**AMERITECH  
ALAN N BAKER  
MICHAEL S PABIAN  
2000 WEST AMERITECH CENTER DRIVE  
HOFFMAN ESTATES IL 60196**

**BELLSOUTH CORPORATION  
WILLIAM B BARFIELD  
M ROBERT SUTHERLAND  
A KIRVEN GILBERT III  
SUITE 1700  
1155 PEACHTREE STREET NE  
ATLANTA GA 30309-3610**

**AMERICAN PUBLIC COMMUNICATIONS  
COUNCIL  
ALBERT H KRAMER  
ROBERT F ALDRICH  
DICKSTEIN SHAPIRO & MORIN LLP  
2101 L STREET NW  
WASHINGTON DC 20554**

**MARK J GOLDEN  
VICE PRESIDENT OF INDUSTRY AFFAIRS  
PERSONAL COMMUNICATIONS  
INDUSTRY ASSOCIATION  
500 MONTGOMERY STREET  
SUITE 700  
ALEXANDRIA VA 22314-1561**

**JONATHAN E CANIS  
REED SMITH SHAW & MCCLAY  
1301 K STREET NW  
SUITE 1100 EAST TOWER  
WASHINGTON DC 20005**

**GTE SERVICE CORPORATION  
DAVID J GUDINO  
1850 M STREET NW  
SUITE 1200  
WASHINGTON DC 20036**

**GTE SERVICE CORPORATION  
RICHARD MCKENNA  
600 HIDDEN RIDGE  
IRVING TEXAS 75015**

**CABLE & WIRELESS INC  
ANN P MORTON  
8219 LEESBURG PIKE  
VIENNA VIRGINIA 22182**

**TELEPORT COMMUNICATIONS GROUP INC  
TERESA MARRERO  
SENIOR REGULATORY COUNSEL  
ONE TELEPORT DRIVE SUITE 300  
STATEN ISLAND NY 10310**

**SPRINT CORPORATION  
JAY C KEITHLEY  
LEON M KESTENBAUM  
NORINA T MOY  
1850 M STREET NW SUITE 1110  
WASHINGTON DC 20036**

**MICHAEL J SHORTLEY III  
FRONTIER CORPORATION  
180 SOUTH CLINTON AVENUE  
ROCHESTER NY 14646**

**EXCEL TELECOMMUNICATIONS INC  
J CHRISTOPHER DANCE  
VICE PRESIDENT LEGAL AFFAIRS  
KERRY TASSOPOULOS  
DIRECTOR OF GOVERNMENT AFFAIRS  
9330 LBJ FREEWAY  
SUITE 1220  
DALLAS TEXAS 75243**

**THOMAS K CROWE  
LAW OFFICES OF THOMAS K CROWE P.C.  
COUNSEL FOR  
EXCEL TELECOMMUNICATIONS INC  
2300 M STREET NW  
SUITE 800  
WASHINGTON DC 20037**

**INFORMATION TECHNOLOGY ASSOCIATION  
OF AMERICA  
JOSEPH P MARKOSKI  
MARC BEREJKA  
SQUIRE SANDERS & DEMPSEY  
1201 PENNSYLVANIA AVENUE NW  
P O BOX 407  
WASHINGTON DC 20044**

**COMPETITIVE TELECOMMUNICATIONS  
ASSOCIATION  
GENEVIEVE MORELLI  
VICE PRESIDENT AND GENERAL COUNSEL  
1140 CONNECTICUT AVENUE NW SUITE 220  
WASHINGTON DC 20036**

**COMPETITIVE TELECOMMUNICATIONS  
ASSOCIATION  
DANNY E ADAMS  
STEVEN A AUGUSTINO  
KELLEY DRYE & WARREN LLP  
1200 NINETEENTH STREET NW SUITE 500  
WASHINGTON DC 20036**

**MCI TELECOMMUNICATIONS CORPORATION  
FRANK W KROGH  
DONALD J ELARDO  
1801 PENNSYLVANIA AVENUE NW  
WASHINGTON DC 20006**